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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/328,417	06/09/1999	MANUEL A. CORREA JR		6806

7590

03/18/2002

Mr. Manuel Correa
3617 Toddsbury Lane
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EXAMINER

COSIMANO, EDWARD R

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 03/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

82

Art Unit: 2161

1. Applicant should note the changes to patent practice and procedure:

A) effective December 01, 1997 as published in the Federal Register, Vol 62, No. 197, Friday October 10, 1997; and

B) effective November 07, 2000 as published in the Federal Register, Vol 65, No. 54603, September 08, 2000.

2. The following has been noted in regard to the instant application:

A) on June 09, 1999, applicant filed the instant application with claims numbered as followed 1-31, 32, 32 (note 2 claims number 32), 33-69 and 70 (attached to the end of claim 69). It is therefore noted that as filed applicant was charged for 70 total claims and 8 independent claims. It is further noted that as originally filed applicant presented 8 independent claims as part of a total of 71 claims. It is noted that, applicant was charged a filing fee of \$1,025.00.

B) further on June 06, 1999, applicant filed a preliminary amendment to renumber the second claim 32 as claim 70. However, such an amendment is improper for two reasons. The first reason is that the instant application already contained a claim 70. The second reason is that the claims of an application can not be renumber by applicant once the application has been filed, see:

“37 CFR § 1.126 Numbering of claims. The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled the remaining claims must not be renumbered. When claims are added, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant. [32 FR 13583, Sept. 28, 1967; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]”.

Hence, the amendment of June 06, 1999 has not been entered.

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C) in view of the above findings, the filing fee for the instant application should have been as follows:

Filing Fee	\$ 380.00	
Claims in excess of 20	\$ 459.00	$((71 - 20) * \$9.00)$
Independent Claims in excess of 3	\$ 195.00	$((8 - 5) * \$39.00)$
Total	\$1,034.00.	

C) in view of the above and since applicant has paid a filing fee of \$ 1,025.00, then applicant is short \$9.00 in the filing fee.

D) Further in view of the fact that the instant application contains two claims numbered as 32 and in view of 37 CFR § 1.126 (see above), the second claim should be numbered as 33 and claims 33-70 would be renumbered as 34-71.

E) it is noted that on May 22, 2000, applicant filed a second preliminary amendment that cancelled claims 2, 3, 5-16, 19-23, 27, 28-36, 39-43, 45-49, 54, 56-60, 63-67, 69 & 70; added new claims 71-80 (should have been claims 72-81); and amended claims 1, 17, 18, 24, 25, 37, 38, 44, 50, 51-53, 55, 61, 62 & 68.

F) in view of the renumbering of the original 71 claims, it is unclear how the Patent Office should proceed with the amendment of May 22, 2000, since some of the original 71 claims that have been both amended and cancelled.

G) further in view of the above, the necessary filing fee for the amendment of May 22, 2000, can not be determined, since the total number of independent claims and total number of claims can are unclear.

3. The examination of the instant claims cannot proceed at this time, since applicant must cure the \$9.00 deficiency in the original filing fee
4. Applicant must clarify the exact claims to be examined in this application be for examination can take place. It is suggested that applicant cancel the original 71 claims and resubmit the claims to be examined starting with claim number 82.
5. It is noted that so long as applicant remains at or below 8 independent claims with 71 total claims no additional filling fees will be do in response to this action.

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6. The shorten statutory period of response is set to expire 1 (ONE) months from the mailing date of this Office action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cosimano whose telephone number is (703) 305-9783. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell, can be reached on (703)-305-9768. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

7.1 The fax phone number for UNOFFICIAL/DRAFT FAXES is (703) 746-7240.

7.2 The fax phone number for OFFICIAL FAXES is (703) 746-7239.

7.3 The fax phone number for AFTER FINAL FAXES is (703) 746-7238.

03/14/02


Edward R. Cosimano

Primary Examiner A.U. 2161